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FEDERAL COMMUNICATIONS COMMISSION
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JUL 21 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

MOBILEMEDIA CORPORATION, et al.

Applicant for Authorizations and Licensee
of Certain Stations in Various Services

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WT DOCKET NO. 97-115

To: The Commission

**WIRELESS TELECOMMUNICATIONS BUREAU'S CONSOLIDATED COMMENTS
ON THE PETITIONS OF MARK WITSAMAN, SANTO PITTSMAN,
DEBRA HILSON, WESTERN WIRELESS CORPORATION AND
TRIAD CELLULAR CORPORATION**

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SUMMARY

The Mark Witsaman, Debra Hilson and Santo Pittsman (collectively referred to as "Corporate Officers") petitions, as demonstrated below, are based on a substantively flawed due process argument. The Corporate Officers claim that their inclusion on a list of "potential wrongdoers" comprised of all former and current officers, directors and senior managers of MobileMedia, jeopardizes their employment with MobileMedia and third party entities and, thus, violates their rights under the United States Constitution. They seek a process by which they can establish their innocence and have their names removed from the list. As discussed more fully below, while there is merit to their request for an established process, there exists no due process violation here since there has been no violative government action. The consequences which the Corporate Officers find objectionable are a direct result of MobileMedia's action -- the decision to pursue relief under the Commission's Second Thursday doctrine, which would obviate the need for a hearing in this matter. Accordingly, the Corporate Officers have failed to satisfy the requisite elements of a due process violation and their argument should be rejected.

Likewise, the Western and Triad Petitions for reconsideration or clarification should be rejected as they are based on an incorrect interpretation of the Commission's Grayson policy. As shown below, contrary to Western and Triad's assertions, a delay in processing applications under the instant circumstances is allowable under Grayson. Under the Commission's rules and procedures, a processing delay which is predicated on further inquiry into the character of the applicant's principals is proper anytime. Moreover, Western and Triad's "lack of control" argument should also be rejected. Their argument focuses on the

provision set forth in Paragraph 18 of the Commission's Order which requires deferral of any application in which MobileMedia's former or current officers, directors or senior managers have an attributable interest. Western and Triad argue that the Commission incorrectly based its standard on the "attributable interest" concept, when it should have been one of "controlling interest." Here, irrespective of which "concept" is used, Western and Triad's argument fails. Western and Triad admit that certain high level Western principals, namely two directors and a major shareholder, have been identified as "potential wrongdoers" in the **MobileMedia matter**. Nevertheless, they maintain that this does not constitute significant control within the Commission's guidelines. Despite such characterizations, these principals' involvement with Western is plainly too substantial for questions of character to be dismissed as irrelevant. Accordingly, this argument provides no legitimate basis for exempting Western from application of the Commission's June 6, 1997, Order.

Notwithstanding the foregoing, the Bureau requests guidance regarding proper procedures under the Order for processing, during the pendency of the stay, applications of third parties, in which a potential wrongdoer of MobileMedia holds an attributable interest. The Bureau seeks additional guidance as to whether the Order contemplated a process by which individuals identified on the "potential wrongdoers" list could avail themselves should they desire to have their names removed from the list and, if so, how to carry out such a process.

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	i
I. INTRODUCTORY STATEMENT	1
II. PROCEDURAL HISTORY	2
III. ARGUMENT	6
A. The Corporate Officers' Due Process Argument Does Not Preclude Development of a "Potential Wrongdoers" List	6
B. Western and Triad's <u>Grayson</u> Policy and "Lack of Control" Arguments Do Not Compel Summary Approval of Their Pending Applications	9
C. Further Guidance Regarding Applicable Procedures to Employ during the Pendency of the Stay Would Assist the Bureau in Carrying Out the Commission's Order	14

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1. On July 3, 1997, Western Wireless Corporation ("Western") filed an emergency petition for limited reconsideration or clarification of the Commission's Order, FCC 97-197 (released June 6, 1997) ("Order"), staying the proceeding for the purpose of allowing MobileMedia Corporation ("MobileMedia") to obtain relief under the Commission's Second Thursday¹ doctrine. On July 7, 1997, Triad Cellular Corporation ("Triad"), Mark Witsaman, Debra Hilson and Santo Pittsman each filed a petition similarly seeking limited reconsideration or clarification of the Commission's Order. The Acting Chief, Wireless Telecommunications Bureau ("Bureau"), by his attorneys, now comments on those Petitions.² The Bureau also seeks further guidance concerning the appropriate procedures for reviewing,

¹ Second Thursday Corp., 22 FCC 2d 515 (1970), recon. granted, 25 FCC 2d 112 (1970).

² Under Section 1.4 of the Commission's Rules, the deadline for responding to Western's Petition would normally be July 14, 1997. However, responses to the petitions of Triad, Witsaman, Hilson and Pittsman were not due under the rules until July 21, 1997. In order to address this matter efficiently, the Bureau has combined its response to all five petitions in the instant consolidated pleading, which is being filed on the June 21st deadline. Both the Office of General Counsel and Western have informally consented to an extension of the deadline for responding to Western's petition.

during the pendency of the stay, applications of third parties which are affected by the Order.³ Additional guidance is also sought as to whether the Order contemplated a process to which individuals identified on the "potential wrongdoers" list could avail themselves should they desire to have their names removed from the list.

PROCEDURAL HISTORY

2. From 1993 through 1996, MobileMedia filed at least 289 false FCC Forms 489, misrepresenting to the Commission that unconstructed stations were constructed, operating, and providing service to subscribers.⁴ MobileMedia also filed with the Commission at least 94 false "40-Mile Rule" applications for new paging facilities that were predicated upon unbuilt facilities.⁵ On April 8, 1997, the Commission designated MobileMedia for hearing to determine whether it is qualified to be and remain a Commission licensee.⁶ Among other things, the Commission sought to determine which corporate officers, directors and senior managers of the company participated in, approved of, or knew about the false filings.⁷ The hearing was scheduled to commence on June 10, 1997.

3. On April 23, 1997, MobileMedia requested a 10-month stay of the proceedings to provide the company an opportunity to avail itself of special relief under the Second Thursday doctrine to benefit its innocent creditors holding more than \$1.1 billion in debt. On

³ Order at ¶ 18.

⁴ Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing for Forfeiture, FCC 97-124 (released April 8, 1997) ("HDO"), at ¶ 5.

⁵ Id.

⁶ HDO, *supra*.

⁷ Id. at ¶¶ 9, 14(a), (c) and (d).

June 6, 1997, the Commission granted this requested relief.⁸ However, to ensure that no potential wrongdoer⁹ of MobileMedia benefited from the stay and the requested relief, the Commission imposed requirements. First, the Order established a definition of "potential wrongdoers" as including "all former and current officers, directors, and senior managers."¹⁰ Second, the Order directed MobileMedia to demonstrate in its Second Thursday showing that "its former and current officers, directors and senior managers will not receive compensation for their equity interests and will have no role in the future operation and management of the company."¹¹ Third, the Order directed that MobileMedia's current officers, directors, and senior managers are not permitted to sell their MobileMedia stock during the pendency of the stay.¹² Fourth, the Order directed that no radio application in which any former or current officer, director or senior manager of MobileMedia has an attributable interest shall be granted until the issue as to that individual's involvement in the MobileMedia wrongdoing is resolved.¹³ In this regard, the Order further directed the Bureau to prepare a list of former and current officers, directors and senior managers of MobileMedia.¹⁴ The Order did not

⁸ Order, supra.

⁹ Under the traditional Second Thursday test, the Commission is concerned that no "suspected" or "alleged" wrongdoer will benefit from the sale of the facilities in question. By contrast, in the instant matter, the Commission appears to have broadened this concept to cover all "potential" wrongdoers without explanation. Clarification as to the Commission's intent would be useful to the Bureau in carrying out the Commission's Order.

¹⁰ Order at ¶ 17.

¹¹ Id.

¹² Id.

¹³ Id. at ¶ 18.

¹⁴ Id.

specifically define the term "attributable interest", and it did not articulate procedures by which the Commission's Bureaus may expeditiously resolve the issue as to each attributable interest holder's involvement in the MobileMedia misconduct.¹⁵ Furthermore, the Order did not establish any procedure as to how potential wrongdoers who do not hold an attributable interest in an application may remove their names from the list.

4. Pursuant to the Order, on June 25, 1997, the Bureau developed and distributed a list of MobileMedia's former and current officers, directors and senior managers to assist other Bureaus and Offices of the Commission in identifying those applications in which potential wrongdoers have an attributable interest.¹⁶ The list identifies 43 such individuals. Among those included on the list are petitioners Debra Hilson, Mark Witsaman and Santo Pittsman. These petitioners allege that their inclusion on the list jeopardizes their employment opportunities with MobileMedia as well as with future employers, thereby violating their due process rights. They seek a procedure, *i.e.*, a hearing process, by which they can have their names removed.

5. John Bunce and Mitchell Cohen are also among the individuals identified on the list as potential wrongdoers. Messrs. Bunce and Cohen, who sit on MobileMedia's Board of Directors, are also directors of Western. Additionally, MobileMedia and Western are owned, in part, by the same entity. Specifically, certain Hellman & Friedman affiliates

¹⁵ It should also be noted that not all of the licensed services that may be at issue have attribution rules. See *e.g.*, Sections 22.108, 22.115 and Part 90 of the Commission's Rules.

¹⁶ Pursuant to the Order, the Bureau distributed an initial list on June 16, 1996. Counsel for MobileMedia subsequently informed the Bureau that certain information they had provided for the purpose of preparing the list was erroneous. Thereafter, counsel for MobileMedia provided revised and corrected information. As a result, a revised and corrected list was distributed on June 25, 1997.

(collectively referred to as "Hellman & Friedman") hold a 52% voting interest in MobileMedia. At the same time, Hellman & Friedman holds a 36% ownership interest in Western, which commands approximately 45% of Western's total voting interests.¹⁷ Additionally, Messrs. Bunce and Cohen are partners in Hellman & Friedman. Western has more than 100 applications for new or expanded cellular, PCS and paging facilities pending before the Commission.¹⁸ It is also the proposed assignee in an application for consent to the assignment of various cellular licenses from Triad.¹⁹ Because MobileMedia directors and owners hold an attributable interest in Western's applications, under the Order, such applications cannot be granted without first resolving the issue as to the directors' and owners' involvement in the MobileMedia misconduct.

6. Western and Triad have moved for reconsideration and/or clarification of the Order, claiming that a suspension in the processing of their applications violates the Commission's Grayson²⁰ policy. They claim that because Western was not designated for hearing at the time of the MobileMedia designation, Grayson precludes any deferral of their applications at this point. They further suggest that the Commission should scrutinize only those applications in which a potential wrongdoer from the Bureau's list holds a "controlling interest" rather than a mere "attributable interest."²¹ In this regard, Western and Triad argue

¹⁷ See Western's Emergency Petition for Limited Reconsideration or Clarification, at Summary.

¹⁸ Id.; see also, Triad's Petition for Reconsideration, at Summary.

¹⁹ Id.

²⁰ Grayson Enterprises, Inc., 79 FCC 2d 936 (1980) (as modified by Commission Announces Modification of Grayson Enterprises Policy on Transferability of Broadcast Licenses, 53 RR 2d (P&F) 126 (1983) ("Grayson Modification").

²¹ Neither Western nor Triad offers a definition of the term "controlling interest."

that despite the positions that Messrs. Bunce and Cohen hold on Western's Board and the significant ownership interest that Hellman & Friedman have in Western, no potential wrongdoer in the Mobilemedia proceeding holds a controlling interest in Western. Thus, Western and Triad request an exemption from any suspension in the processing of their applications or, in the alternative, seek a procedure by which their applications can be immediately processed.²²

ARGUMENT

A. The Corporate Officers' Due Process Argument Does Not Preclude Development of a "Potential Wrongdoers" List.

7. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the due process Component of the Equal Protection Clause of the Fifth Amendment." Communications Satellite Corporation, 3 FCC Rcd. 7108, 7111 (1988) (emphasis added); see also, Michael D. Bramble, 58 FCC 2d 565, 567-70 (1976). Once an interest has been identified, the party seeking due process protection must show that government action has caused significant, grievous injury to the protected interests. Communications Satellite Corporation, supra. Once this initial showing is made, two elements of due process are required, including adequate notice and an opportunity for hearing appropriate to the nature of the case. Id.; In re

²² Additionally, Western offers to "take certain additional steps conditioned on grant of [its] petition." See Western's Emergency Petition for Limited Reconsideration or Clarification, at 24. Specifically, Western offers to undertake the following action pending favorable resolution of the qualifications of Messrs. Bunce, Cohen and Hellman & Friedman: (1) temporary removal of Messrs. Bunce and Cohen from Western's Board, and reducing Hellman & Friedman's representation on Western's Board to one seat which would be assumed by an individual not identified on the Bureau's list; and (2) transfer by proxy the voting rights of approximately 17% of Hellman & Friedman's stock to John Stanton, Western's Chairman and Chief Executive Officer, thereby providing Mr. Stanton with the largest number of votes in Western. Id.

Applications of PCS 2000, L.P. For Broadband Block C Personal Communications Systems Facilities, FCC 97-15 (released January 22, 1997), at ¶ 32; see also Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, 11 FCC Rcd. 6835, 6844 (1996).

8. Here, the Corporate Officers have not suffered any due process violation because no action on the part of the government has deprived them of any protected right. The Corporate Officers have confused MobileMedia's voluntary election to avoid a substantive hearing on this matter and avail itself of Second Thursday relief, with arbitrary government action. Here, it is MobileMedia, itself, which is seeking to avoid a full and complete hearing on this matter, leaving unresolved the issue of what involvement, if any, each of its officers, directors and senior managers had in the company's wrongdoing. This decision is fully supported by the Corporate Officers, who object only to the development of the list. They unequivocally state that they do not wish to disturb the 10-month stay or MobileMedia's opportunity to seek Second Thursday relief.²³

9. Likewise, the cases cited by the Corporate Officers as authority for their due process argument are misapplied. Each of their cited cases involved government action without any opportunity for a hearing on the matter. See e.g., Goss v. Lopez, 419 U.S. 565 (1975)(students facing temporary suspension from public school were entitled to protection under the due process clause); Wisconsin v. Constantineau, 400 U.S. 433 (1971)(Wisconsin statute authorizing police to post in liquor outlets a list of individuals who were not to be sold liquor, in absence of a provision for notice or hearing prior to such posting, was

²³ See Motion of Debra Hilson, at 2, n. 2; Motion of Mark Witsaman, at 2, n. 2; Petition of Santo Pittsman, at 2.

unconstitutional); Kartseva v. Department of State, 37 F. 3d 1524 (D.C.Cir. 1995)(employee's allegations that she was discharged from her position as Russian translator after Department of State ruled, without a hearing, that employee was ineligible to work on contract with Department because of security concerns was sufficient to state claim against Department for violation of her due process rights). As detailed above, the opportunity for a hearing does indeed exist in the present case. MobileMedia has voluntarily elected to pursue regulatory relief by which it would forego the hearing and accept all conditions for doing so. None of the Corporate Officers has taken issue with MobileMedia's decision to seek Second Thursday relief. As a result, the Corporate Officers should be deemed to have accepted the full consequences of MobileMedia's decision.

10. Even assuming, arguendo, that compilation of the potential wrongdoers list was viewed as government action, the Corporate Officers still fail to establish a due process claim because they have not been deprived of any protected interest. The Supreme Court has specifically held that injury to reputation alone is not a "liberty" or "property" interest protected under the Constitution. Paul v. Davis, 424 U.S. 693 (1976), reh. denied, 425 U.S. 985 (1976); see also, Siegert v. Gilley, 500 U.S. 226 (1991)(government supervisor's submission of defamatory letter to prospective employer of former government employee did not constitute violation of any constitutional right), reh. denied 501 U.S. 1265 (1991). In Paul v. Davis, supra, the plaintiff's photograph was included by local police chiefs in a flyer of "active shoplifters", after petitioner had been arrested for shoplifting. The shoplifting charge was eventually dismissed. The plaintiff filed suit against the police chiefs, alleging that the officials' actions inflicted a stigma to his reputation that would seriously impair his future

employment opportunities and, thus, deprived him of his due process rights. The Supreme Court rejected the claim, holding that injury to reputation by itself was not a "liberty" interest protected by the Constitution. *Id.*, 424 U.S. at 708-709. In light of the Supreme Court's decision in *Paul* and *Siegert*, the facts alleged by the Corporate Officers do not provide a sufficient basis for a claim that their due process rights have been violated. First, the substance of their claim is akin to those involved in *Paul* and *Siegert*, where injury to reputation alone was found not to be a protected constitutional interest.²⁴ Second, the Commission has not taken any final action which directly affects the Corporate Officers' employment. In this regard, the Commission has not directed MobileMedia to fire any company employees. Rather, the Commission has simply prescribed a condition which MobileMedia must satisfy in the event MobileMedia voluntarily elects at the end of ten months to avail itself of relief under the *Second Thursday* doctrine.

B. Western and Triad's Grayson Policy and "Lack of Control" Arguments Do Not Compel Summary Approval of Their Pending Applications.

11. The Commission's *Grayson* policy addresses the issue of the transferability of commonly held stations of licensees who have applications that are designated for hearing. If the alleged misconduct appears at the time of designation to affect the renewability of other licenses, *Grayson* instructs that those licenses be designated for hearing at the same time. *Grayson Modification, supra*. If the designated issues are limited to only the stations in question, then under *Grayson*, other commonly held licenses may be transferred freely. *Id.*

12. Western and Triad have misread the *Grayson* policy, arguing that the

²⁴ Even if the Corporate Officers' claim did constitute a protected interest, they have failed to show that the list has caused significant, grievous injury thereto. In fact, the purported impact on future employment is, at best, speculative.

Commission, in failing to designate Western's licenses or applications at the time of the MobileMedia designation, has made a de facto determination of transferability and is foreclosed from deferring their approval. Grayson, however, does not imply any such de facto determination by the Commission. See e.g., Trinity Broadcasting of Florida, Inc., 9 FCC Rcd. 2567 (1994) (holding that Grayson policy does not foreclose a full examination of future applications). In fact, a Grayson analysis may be made after the initial designation of a licensee. See e.g., RKO General, Inc., 5 FCC Rcd. 642 (1990) (Grayson analysis undertaken after initial designation and subsequent finding that applicants lacked the basic qualifications to be Commission licensees). Under the Grayson policy, the Commission also retains the discretion to take appropriate action against the licensee's other stations at a later point if the circumstances warrant. Grayson, *supra*, 79 FCC 2d at 940; Little Rock Radio Telephone Company, Inc., 89 FCC 2d 400, at 410 (1982). Thus, deferral and later examination of Western's applications is permissible under Grayson.

13. Carrying Western and Triad's argument to its logical conclusion, once an issue was specified to inquire into potential misconduct of a multiple owner, the Commission would either have to designate, at that time, every application or license involving every principal of the licensee, or forever lose the right to take action against their other applications or licenses. Such a procedure was not contemplated by the Grayson policy.

14. Moreover, the circumstances of the instant case do not fit squarely within the typical Grayson analysis. Grayson generally deals with a situation involving multiple licenses of the same licensee where only a select number of the licenses have been designated for hearing. Here, we are dealing with the issue involving the misconduct of one licensee which

has been designated for hearing, and the concern over the qualifications of a different applicant which shares some common principals with the original licensee charged with the misconduct. The Commission properly separated any examination of Western and MobileMedia's qualifications into two separate proceedings. Thus, deferral and later examination of Western's applications is proper under Grayson.

15. The Commission is statutorily obligated to assess the qualifications of all applicants. 47 U.S.C. § 308(b). Section 308(b) provides in pertinent part:

All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station. . . .and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of any such licenses, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked.

As the character of individuals substantially involved in an application is a relevant consideration under the Communications Act, the Commission is justified in examining such qualifications at anytime. Further, the Commission has wide discretion to fashion procedures that are appropriate to completing their mission. 47 U.S.C. § 154(j) ("The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.") Courts have recognized that the "ultimate choice of procedures (in the absence of a statutory mandate) is left to the discretion of the agency involved." Bell Tel. Co. of Pa. v FCC, 503 F.2d 1250, 1266 (3d Cir. 1974), cert. denied, 422 U.S. 1026 (1975). Thus, the Commission is well within its authority in deferring the applications of Western until critical questions of the character of certain Western principals

is resolved. See e.g., Roy M. Speer, 2 CR 901 (1996) (order, which granted consent to the transfer of control, was stayed on Commission's own motion until allegations of misrepresentation and lack of candor of seller could be assessed by Commission.)

16. Furthermore, Western and Triad's objection to the Commission's use of the "attributable interest" designation as the benchmark for further inquiry is inapposite. Western and Triad contend that the notion of "attributable interest" is relevant only to application reporting and should not bear on the analysis used for application processing. Such a rationale suggests that application reporting must be conducted in a vacuum and can bear no relation to the processing procedure which follows. Obviously, the reporting procedures are designed to supply the Commission with the relevant information needed for processing applications. The character qualifications of board members and major interest holders of licensees such as Western, are a relevant consideration per se under the Communications Act. No matter how characterized, Messrs. Bunce and Cohen's roles as directors in Western (i.e., comprising one third of Western's Board) and Hellman & Friedman's ownership of a significant number of shares of Western (i.e., controlling 45% of Western's total voting interests) are too substantial for unresolved questions of their character to be dismissed as irrelevant to Western's basic qualifications.

17. Additionally, Western and Triad argue that the Character Policy Statement²⁵ renders any misconduct of its principals occurring at MobileMedia inapplicable to Western's applications. Their argument is based on a misreading of the section in the Character Policy

²⁵ Policy Regarding Character Qualifications in Broadcast Licensing, 102 FCC 2d 1179 (1986) ("Character Policy Statement"), on recon, 1 FCC Rcd 421, appeal dismissed sub nom. National Association of Better Broadcasting v. FCC, No. 86-1179 (D.C. Cir. June 11, 1997).

Statement addressing "Parent-Subsidiary Relationships."²⁶ In essence, they contend that the parent-subsidiary corporate structure maintained by Western insulates the parent's principals from character scrutiny by the Commission. The Character Policy Statement, however, makes no such distinction in determining whose conduct will be considered by the Commission during application processing. According to Western and Triad, Messrs. Cohen and Bunce and Hellman & Friedman's alleged misconduct can be considered only if such principals were involved in the "day-to-day" operations of Western's license-holder subsidiaries. The Character Policy Statement imposes no such restriction, holding instead that "FCC-related misconduct of those individuals associated with the parent corporation and also involved in subsidiary operations, occurring in the course of their employment . . . raises sufficient question regarding the subsidiary's qualifications so that such matters will receive consideration."²⁷ There can be no question that given the high level positions held by Messrs. Bunce and Cohen and the significant ownership interest of Hellman & Friedman, such principals can direct and affect the policies and operations of the parent, as well as the subsidiary and, therefore, are "involved in subsidiary operations" as contemplated under the Character Policy Statement. The phrase "day-to-day operations" used by Western is the standard applicable to non-FCC misconduct, not FCC misconduct which is present here.²⁸ Accordingly, Western and Triad's request for exemption from the Commission's June 6, 1997 Order on this basis should be rejected.

²⁶ Character Policy Statement, 102 FCC 2d at 1219-1220.

²⁷ Character Policy Statement at 1219.

²⁸ Id.

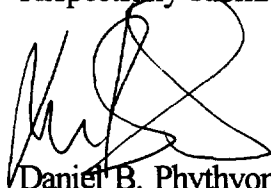
C. Further Guidance Regarding Applicable Procedures To Employ During the Pendency of the Stay Would Assist the Bureau in Carrying Out the Commission's Order.

18. Notwithstanding the foregoing, it would be useful if the Commission takes this opportunity to articulate a procedure by which its Bureaus and Offices may process, during the pendency of the stay, applications of third party applicants, such as Western and Triad, in which a potential wrongdoer of MobileMedia holds an attributable interest. Any such procedure, however, should take into account that an early determination of the potential wrongdoers' character, as it relates to MobileMedia's false filings in this case, may have preclusive effect in a later proceeding involving MobileMedia should there be a denial of Second Thursday relief. See e.g., L.D.S. Enterprises, Inc., 86 FCC 2d 283 (1981) (inasmuch as the character issues concerning the transferee and its controlling stockholder were already litigated, or formed the basis for the denial of a licensee's application, the doctrine of collateral estoppel precludes their relitigation). Moreover, if the Commission intends to establish a procedure by which individuals may remove their names from the list of "potential wrongdoers", guidance regarding such a process would assist the Bureau in carrying out the Order. The procedures available for review of applicants and individuals might include, for example, an investigatory proceeding pursuant to Section 403 of the Communications Act of 1934, as amended; or perhaps paper hearings conducted within the Bureau. The Bureau believes, however, that multiple adjudicatory hearings before Administrative Law Judges would not be administratively efficient.

19. Finally, the Bureau is sensitive to the fact that third party licensees, such as Western and Triad, which have no direct relationship to the misconduct at issue in the

MobileMedia HDO, have nevertheless been affected by the Order. The Bureau has a strong interest in minimizing the disruption to the ongoing operations of licensees who, like Western, had the misfortune to seek venture capital from the same sources as MobileMedia. In light of the above, the Commission has an interest in establishing timely and efficient procedures to process the affected applications to prevent undue injury to innocent licensees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. B. Phythyon', written over the typed name.

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July 21, 1997

CERTIFICATE OF SERVICE

I, Rosalind Bailey, a secretary in the Enforcement and Consumer Information Division, Wireless Telecommunications Bureau, certify that I have, by first class U.S. mail, this 21st day of July 1997, sent copies of the foregoing "Wireless Telecommunications Bureau's Consolidated Comments on the Petitions of Mark Witsaman, Santo Pittsman, Debra Hilson, Western Wireless Corporation and Triad Cellular Corporation", to:

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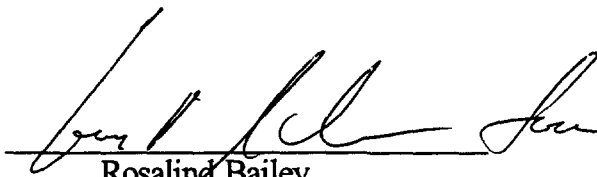
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